

GREEN BUILDING ORDINANCE

ORDINANCE NO. _____

AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA AMENDING THE CITY CODE OF THE CITY OF MIAMI BEACH, BY CREATING NEW CHAPTER 100, ENTITLED "SUSTAINABILITY," BY CREATING NEW ARTICLE I, "GREEN BUILDING ORDINANCE," ESTABLISHING DEFINITIONS, STANDARDS, PROCEDURES AND INCENTIVES FOR REQUIRING THAT ALL NEW CONSTRUCTION OR SUBSTANTIAL RENOVATIONS OF 10,000 SQ. FT. OR MORE OF FLOOR AREA MUST SATISFY THE REQUIREMENTS OF LEED SILVER CERTIFICATION, AS ESTABLISHED BY THE U.S. GREEN BUILDING COUNCIL; PROVIDING FOR REPEALER; SEVERABILITY; CODIFICATION; AND AN EFFECTIVE DATE.

WHEREAS, a green building, also known as a sustainable building, is a structure that is designed, built, renovated, operated, or reused in an ecological and resource-efficient manner; and

WHEREAS, the Leadership in Energy and Environmental Design (LEED) Green Building Rating System, developed by the U.S. Green Building Council ("USGBC") provides standards for environmentally sustainable construction; and

WHEREAS, since its inception in 1998, LEED has grown to encompass over 14,000 projects in 50 U.S. States and 30 countries covering 1.062 billion square feet (99 km²) of development area; and

WHEREAS, the hallmark of LEED is that it is an open and transparent process where the technical criteria proposed by the LEED committees are publicly reviewed for approval by the more than 10,000 membership organizations that currently constitute the USGBC; and

WHEREAS, the USGBC reports the following benefits of green building construction:

Environmental benefits: enhance and protect ecosystems and biodiversity, improve air and water quality, reduce solid wastes, conserve natural resources; and

Economic benefits: Reduce operating costs, enhance asset value and profits, improve employee productivity and satisfaction, optimize life-cycle economic performance; and

Health and community benefits: improve air, thermal, and acoustic environments, enhance occupant comfort and health, minimize strain on local infrastructure, and contribute to overall quality of life; and

WHEREAS, the City Commission has determined that due to the benefits determined by the USGBC above and otherwise documented by that organization, it is in the public health, safety and welfare of the citizens, residents and workers in Miami Beach that all new construction and substantial renovation for projects in excess of 10,000 sq. ft. of floor area within the City be required to obtain LEED silver certification as provided below, and this ordinance is hereby adopted to impose such requirement for the reasons herein stated.

NOW THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA.

SECTION 1. That City Code Chapter 100, entitled "Sustainability," Article I, "Green Building Ordinance," is hereby created as follows:

Chapter 100
Sustainability

Article I. Green Building Ordinance.

Sec. 100-1. Definitions.

The following words, terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning, or as may be amended from time to time.

Building means any structure having a roof supported by columns or walls for the shelter or enclosure of persons or property and includes the word structure and includes any part thereof.

City means City of Miami Beach.

Construction means any project associated with the creation, development, or erection of any building eligible for the program.

Current means the standard in place at the time a program participant submits a project application form with the City.

Green Building means a building whose design, construction and operation promote the preservation of resources and environmentally sensitive construction practices, systems and materials. In making the determination of whether a structure is a green building, the City shall rely on the review, evaluation and registration, certificate and/or verification of the design by U.S. Green Building Council, subject to the requirements of this ordinance.

Green Building Program means the program outlined in this ordinance for obtaining incentives for green buildings and developments.

Green Development means the use of sustainable building and development planning methods utilized in a way that result in minimum impact on natural

resources, energy consumption, use of water, use of raw materials and waste generation, thereby affording inhabitants a potentially higher quality of life.

Private means property not owned by the City or any of its related agencies.

Program means the City's Green Building Program.

Program Certification means the final designation awarded to a program participant for satisfying all requirements associated with the program for a particular project.

Program Participant means any person or entity seeking program certification for a particular project.

Project means any construction associated with the creation, development, or erection of any building eligible for the program.

Project Application Form means the form submitted to the City indicating that a program participant is interested in participating in the program for a particular project.

Structure means anything constructed or erected, the use of which requires permanent location on the ground. Among other things, structures include buildings or any parts thereof, walls, fences, parking garages, parking lots, signs and screen enclosures.

Sub-program means any area of construction covered by the program.

Substantial Renovation means a renovation at a cost exceeding 50 percent of the value of the building as determined by the building official.

Sustainable Construction means the process of environmentally sensitive, resource efficient site selection, preparation, design, construction, and operation of buildings.

Any word not defined herein shall be construed as provided in section 114-1 of this Code, or in the Florida Building Code, if provided therein, and if in conflict, the most restrictive shall apply.

Sec. 100-2. Purpose and intent.

The purpose of this ordinance is to establish and promote programs and procedures that will help the City become a more sustainable community. This program shall define and establish new environmental goals and standards for a LEED certification-based Green Building Program with incentives. This program will promote economic and environmental health in the City, through sustainable and environmentally friendly design and construction.

Sec. 100-3. Government leadership.

To demonstrate the City's commitment to a Green Building Program, the City shall comply with the Green Building Program established in this Article for all government buildings when new construction or substantial renovation as provided for in this ordinance occurs.

Sec. 100-4. Designation of responsibility for administration and implementation.

The program shall be administered by the City Manager or designee, who shall be responsible for:

- (a) Funding administration of the City's Green Building Program through annual funds budgeted and appropriated by the City Commission;
- (b) Marketing the program to the community by any reasonably effective means, including but not limited to press releases, television advertising, or advertising in electronic or print mailers;
- (c) Developing any appropriate or necessary application procedures, including but not limited to, the program application form;
- (d) Writing policies and procedures for staff implementation of the Green Building Program;
- (e) Providing and implementing an incentive award as herein provided to any program participant who has successfully satisfied the requirements associated with that incentive; and
- (f) Resolving disputes that may arise from implementing the program.

Sec. 100-5. Green building program applicability.

This program shall be mandatory and shall apply to public and private buildings, except single family homes, involving new construction, or substantial renovation of existing buildings, of 10,000 square feet or more of floor area.

Sec 100-6. Green building standards.

In addition to the Florida Building Code's minimum standards, the Program shall be administered using then current standards developed by the U.S. Green Building Council ("USGBC"). These standards shall apply to each sub-program as follows.

- (a) New buildings: The program participant shall satisfy all of the requirements associated with the then current USGBC LEED silver certification for New Construction or derived USGBC LEED rating system (e.g., LEED for Schools, LEED for Health Care) program; and
- (b) Renovation of existing buildings: The program participant shall satisfy all of the requirements associated with the then current USBGC LEED silver certification for Existing Buildings, Maintenance & Operations, or derived USGBC LEED rating system (e.g., LEED for Schools, LEED for Health Care) program.

If there is a conflict between the USGBC standards and the Florida Building Code ("FBC") or Florida Fire Prevention Code ("FFPC"), the FBC and FFPC take precedence.

Sec. 100-7. Incentives.

(a) The program shall consist of the following incentives designed to reward owners for green building.

(i) Building permit applications submitted or resubmitted for review shall be given priority review over projects that are not green building projects by the City's departments reviewing such applications

(ii) Applications for approval of a green building project to the Design Review Board, Historic Preservation Board, Planning Board, and/or Board of Adjustment shall be given priority both in the order in which they are reviewed by City staff and the order in which they are heard by the boards.

(iii) All building inspections requested for green building projects shall be given priority over projects that are not green building projects; and

(iv) Subject to, and within the limits of, funds appropriated by the City Commission for the purposes set forth herein, owners or developers of green buildings shall receive a refund of the actual application fees for Green Building Program certification and [] per cent of the actual building permit fee costs (excluding impact fees and other fees required at time of building permit), within 180 days of proof of certification by USGBC being submitted in writing to the City.¹

(b) In addition to the foregoing, the City shall provide the following marketing incentives:

(i) Allowing a plaque not to exceed two square feet to be attached to the building designating a project under the program, subject to the review and approval of the City Manager or designee;

(ii) The inclusion of program participants on a city webpage dedicated to the program;

(iii) Press releases; and

(iv) An award called the "Green Building Award" to be awarded annually to one program participant in each sub-program (e.g., new construction and renovation).

(c) Prior to award of incentives, the participant shall be required to attend a pre-application meeting with the City Manager or designee for the purpose of a review of the proposed certification checklist and detail of proposed credits for certification. The checklist and certification details shall be confirmed through a covenant, recorded in the public records, form approved by the City Attorney, between the property owner and the city that the minimum required by the program guidelines, policies and procedures will be incorporated into the development and maintained in perpetuity. The participant will provide a performance bond, in a form approved by the City Attorney, in an amount equal to \$1.00 per square foot of the proposed project, along with the filing of any application for review of the project by a City board or department. This bond shall be forfeited to the city as a contribution to the funding of the City's Green Building Program, in the event the building does not meet those requirements on

¹ Reduction of building permit fees to be determined. Also, consider amending the fee ordinance to allow for the reduction of fees or perhaps cross-reference this new ordinance.

certification. The bond will be released following submittal to the City of written proof of certification by the USGBC.

Sec. 100-8. Certification.

The project shall be subject to certification by a qualified independent third party who has been trained and certified as a LEED green building certifier. For the purpose of this section of the program, "third party" means any person or entity authorized according to the requirements of the standards in this Article for a particular project.

Sec. 100-9. Education and training.

(a) The City shall conduct at least one training workshop per year for the purpose of educating potential or current program participants about the program.

(b) The City shall encourage not less than two members each of the building, planning department and public works staff to attend at least 8 hours of green building training a year.

Sec. 100-10. Index and report.

The City Manager shall annually analyze and report to the City Commission on the satisfaction of the Green Building Program's goals and objectives as outlined in this Article.

Sec. 100-11. Program review.

(a) Staff review. The City shall provide for a review of the program to determine the need for changes in the program to increase its effectiveness.

(b) Frequency. The program shall be subject to review one year after the effective date of this ordinance and thereafter at a frequency of not less than once per year.

(c) Purpose. The purpose of reviewing the program includes but is not limited to updating program standards and incentives, recommending program or marketing changes, reviewing suggestions made by program participants, and annually awarding the green building awards of the program.

SECTION 2. Repealer.

All ordinances or parts of ordinances and all section and parts of sections in conflict herewith be and the same are hereby repealed.

SECTION 3. Codification.

It is the intention of the City Commission, and it is hereby ordained that the provisions of this ordinance shall become and be made part of the Code of the City of Miami Beach as amended; that the sections of this ordinance may be renumbered or relettered to accomplish such intention; and that the word "ordinance" may be changed to "section" or other appropriate word.

SECTION 4. Severability.

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

SECTION 5. Effective Date.

This Ordinance shall take effect ten days following adoption.

PASSED and **ADOPTED** this _____ day of _____, 2008.

MAYOR

ATTEST:

CITY CLERK

First Reading:
Second Reading:

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION

City Attorney

Date

Underscore denotes new language

~~Strikethrough~~ denotes deleted language

F:\atto\HELG\Ordinances\Green\Green Building ordinance 07222008.doc